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IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

EVAN CARNAHAN,

Plaintiff,

vs.

ALPHA EPSILON PI FRATERNITY,
INC. and DAVID LEON,

Defendants.

COMPLAINT

Case No.

EVAN CARNAHAN, through counsel, Mark Choate, brings this Complaint against ALPHA EPSILON PI FRATERNITY, INC. and DAVID LEON for injuries he suffered because of horseplay occurring while alcohol was being consumed at the fraternity in violation of fraternity rules, university policies and state law.

Because of that wrongful conduct, CARNAHAN suffered a traumatic brain injury with long-term consequences forcing him to leave school and incur significant costs associated with the diagnosis and treatment of his injuries. His prognosis remains unclear as of the date of this Complaint.

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GENERAL ALLEGATIONS

1. Plaintiff, EVAN CARNAHAN, (CARNAHAN) is a resident of the State of Alaska, residing in Juneau, Alaska.

2. Defendant ALPHA EPSILON PI FRATERNITY, INC., (AEP) is a non-profit corporation organized under the laws of the State of New York. It sponsors and supports fraternity chapters at university campuses around the United States. One of its chapters and the focus of this litigation is located at the AEP fraternity house near the University of Washington in Seattle, Washington.

3. Defendant DAVID LEON was a member of the ALPHA EPSILON PI fraternity and on information and belief was a resident of the State of Washington at all times relevant to this action.

4. This action is brought under the Court's diversity jurisdiction 28 U.S.C. § 1332. Damages exceed \$75,000.00.

5. All relevant events in this Complaint occurred in Seattle, Washington and for that reason, venue is proper in the Western District of Washington.

BACKGROUND

6. CARNAHAN was accepted to the Freshman Class of the University of Washington for the Fall Semester in 2013.

7. CARNAHAN rushed and was accepted as a pledge to AEP's chapter at the University of Washington.

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8. Membership into AEP provided a residential environment for CARNAHAN as an entering freshman. This included a place to live and eat and to engage in social activities.

9. Washington state law prohibits individuals under the age of 21 from drinking alcoholic beverages.

10. The UW Student Conduct Code, WAC 478-120-024(6), prohibits the unlawful possession, use or distribution of alcohol.

11. The University of Washington in many other ways actively prohibits underage individuals from drinking on campus or at university-sponsored events.

12. In addition, AEP is a member of the University of Washington Interfraternity Council. It's Constitution specifically prohibits provision and use of alcohol by underage individuals at fraternity-related activities.

13. AEP's chapter at the University of Washington agreed to follow state law, University of Washington rules and the Interfraternity Council Constitution regarding alcohol.

14. Despite these laws, rules and promises, alcohol was constantly present and available to underage members of AEP including CARNAHAN.

15. Throughout the Fall of 2013, CARNAHAN as a new member of AEP drank significant amounts of alcohol with his fraternity brothers, many of them underage, and known by all to be prohibited from consuming alcohol.

COUNT ONE

(Negligence)

16. Plaintiff restates the allegations contained within the preceding paragraphs, and further states as follows:

17. On January 25, 2014, CARNAHAN was drinking alcoholic beverages with other members of AEP.

18. They were all drinking and intoxicated.

19. One of CARNAHAN's fraternity brothers, DAVID LEON, while engaging in horseplay, negligently struck CARNAHAN in the head with the stock of an airsoft gun.

20. Because of his intoxication, CARNAHAN was initially not aware of the significance of the blow to his head. He went to bed that evening but the following morning had difficulty getting up out of bed and had a pounding headache.

21. LEON admitted that following morning to negligently hitting CARNAHAN in the head with the air soft gun.

22. CARNAHAN was reluctant to report his injury because of concerns it would negatively affect his position within the AEP chapter at the University of Washington.

23. CARNAHAN began to experience a gradual increase in problems with concentration, headaches, memory, and sensitivity to light, which he only later understood were the product of the blow to his head on the night of January 26, 2014.

24. AEP was negligent in allowing its underage members including CARNAHAN to drink alcoholic beverages in violation of state law, University of Washington policies, and the UW Interfraternity Council Constitution.

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25. LEON was negligent in both drinking and while intoxicated, failing to use due care, causing injury to CARNAHAN.

26. As a proximate result of that negligence, CARNAHAN was injured and has suffered damages including having to withdraw from the University of Washington, being required to seek and obtain ongoing medical treatment, and being disabled.

COUNT TWO

(Contract)

27. Plaintiff restates the allegations contained within the preceding paragraphs, and further states as follows:

28. On information and belief, AEP had a history of violating alcohol rules and has been suspended by the University of Washington for those violations.

29. On information and belief, even when suspended, AEP continued to violate alcohol prohibitions and had its underage members, including CARNAHAN illegally purchase alcohol for fraternity events and to drink at the fraternity house.

30. On information and belief, AEP intentionally planned activities where alcohol would be consumed without knowledge and oversight by the University of Washington and campus police in deliberate circumvention of laws, regulations and rules prohibiting the consumption of alcohol.

31. AEP placed its interest in providing alcohol to underage members ahead of both the rules it agreed to follow and the best interests of the minors it agreed to provide housing and a social network.

32. AEP expressly and impliedly promised that it would provide a healthy and safe living environment for underage members such as CARNAHAN.

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33. AEP breached those promises to CARNAHAN by operating a chapter at the University of Washington in which every opportunity was made to provide access to alcohol to its underage members.

34. AEP did this knowing that CARNAHAN and others lacked the legal and emotional capacity to make good decisions regarding alcohol use.

35. Because of AEP's breach of those promises, CARNAHAN has been injured and suffered damages, including having to withdraw from the University of Washington, incurring in the past and future medical costs, suffering past and future economic losses.

DAMAGES

As a direct and proximate result of AEP's negligence and breach of promise, CARNAHAN has suffered damages including but not limited to the following:

36. He was forced to withdraw from the University of Washington and has not been able to resume his education;

37. He has incurred past medical damages and will incur future medical damages;

38. He has incurred past losses in earnings and has suffered a reduction in his ability to earn money in the future;

39. He has suffered emotional injuries including depression and anxiety;

40. His ongoing cognitive and physical problems have and will continue to severely impact the quality of his daily life.

JURY DEMAND

Plaintiff makes demand for jury trial on all issues so triable in this matter.

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PRAYER FOR RELIEF

Plaintiff EVAN CARNAHAN prays that judgment enter for him and against ALPHA EPSILON PI FRATERNITY, INC. and DAVID LEON, jointly and severally, as follows:

1. General damages.
2. Special damages.
3. For contract damages including consequential damages.
4. For prejudgment interest and post-judgment interest as allowed by law;
5. For fees and costs as allowed by law.
6. For such other and further relief as the Court deems just and equitable.

DATED: Monday, January 23, 2017 at Juneau, Alaska.

CHOATE LAW FIRM LLC
Attorneys for Evan Carnahan

By: s/Mark Choate
Mark Choate, WA # 43049

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